Supreme Court, U.S.
FILED
APR 26 2001
CLERK

(2)

No. 00-1455

In The
Supreme Court of the United States

October Term, 2000

GEORGE R. "TEX" WOOD,
Petitioner

vs.

CAMERON QUINN, Secretary of the Virginia State Board of Elections,
Respondent.

On Petition for Writ Of Certiorari to the United States Court Of Appeals for the Fourth Circuit

SUPPLEMENTAL BRIEF

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QUESTIONS PRESENTED FOR REVIEW

Preface

The Court's unanimous decision in *Cook v. Gralike* 191 F. 3rd 911 on February 28, 2001, came down after the *Wood v. Quinn* (case No. 00-1455) Petition for Writ of Certiorari was at the Court, and *Cook. v. Gralike* bears heavily and fundamentally on *Wood v. Quinn*.

1. Whether granting un-equal rights to Virginia residents according to geographic location in statewide elections is violative of the Equal Rights Clause of the Fourteenth Amendment of the United States Constitution, *Bush v. Gore* ___U.S. ___00949; *Cook v. Gralike* 191 F. 3rd 911.

2. Whether *Anderson v. Celebrezze*, 460 U.S. 780 (1983) and *Cromer v. South Carolina*, 917 F.2nd 819 (4th Cir. 1990) still apply and mean state ballot access restrictions cannot treat un-equal things as if they are equal or be more onerous for independents. (i.e., Most Virginia, major party U.S. Senate candidates are selected in convention, and there is no geographic weight given to convention delegates; the person with the most delegates wins, no matter from whence those delegates hale.)

3. Whether an error claiming falsely that a case had *ruled* on (then upheld) a code that did not even exist until 13 years later, then using that case as the controlling case, constitutes reversible error.

4. Whether a unique Virginia ballot access code, Va. Code 24.2-506 (1)(see also Va. Code 24.2-507 [1]) can require a potential independent candidate to do something and at the same time prohibit him or her from doing it, having the practical effect of limiting all Virginia voters' First Amendment right to freedom of association by herding them all into the two major parties.

PARTIES TO THE PROCEEDING

The caption of the case contains the names of all parties.

CITATIONS OF OFFICIAL REPORTS OF OPINIONS AND ORDERS

The Order of the United State Court of Appeals for the Fourth Circuit (Sept. 8, 2000,) springs from *Wood v. Quinn*, No. CA-00-335-3: E.D. Va. July 17, 2000. The U.S. Court of Appeals for the Fourth Circuit denied a Petition for Rehearing and Petition for Rehearing *En Banc* October 17, 2000. (Un-published, *per curiam* opinion.)All U.S. Court of Appeals for the Fourth Circuit Orders are in the *cert's* Appendix. The decisions of the United States District Court for the Eastern District of Virginia are docketed as Civil Action No.00-335-3. Those Orders are in the appendix to the *cert*. The *cert* is case # 00-1455.

JURISDICTIONAL GROUNDS

This Court has jurisdiction under 28 U.S.C. 1254(1) to review the decision of the Fourth Circuit of Appeals. The Fourth Circuit rendered its decision on Sept. 8, 2000, (App. at 3a), and denied the petition for rehearing on Oct. 17, 2000 (App. at 4a). Pursuant to Supreme Court Rule 15.8, this supplemental brief was timely filed because *Cook v. Gralike* came down after the *cert* was being processed by the Court.

Petitioner served by first class mail (Rule 29.2) notification of this supplemental brief to the Commonwealth of Virginia's Attorney General's office, counsel for the Respondent.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Petitioner relies on the First and Fourteenth Amendments to, and on Article I, Section 4 and Article 4 of, the United States Constitution to challenge the Sept. 8, 2000, 4th Circuit decision and further to challenge Virginia Codes 24.2-506 and 24.2-507 Petitioner respectfully refers the Court to the Appendix materials in the *cert.*

CONCISE STATEMENT OF THE REASONS FOR THE SUPPLEMENT

Cook v. Gralike 191 F. 3rd 911 came down on February 28, 2001, after the *cert* for *Wood v. Quinn* had been submitted to the Court and has direct bearing on *Wood v. Quinn.*

The Virginia Codes under examination fall well outside the grant of authority to the states to regulate the time, place, and manner of federal elections. What Justice Stevens said in *Cook v. Gralike* when citing what the district court had said concerning the state's action, "'[It} has the sole purpose of creating additional qualifications for Congress indirectly and has the likely effect of handicapping a class of candidates for Congress, 996 F. Supp 917, 920 (1998); see 996 F. Supp. 901, 905-909 (1998)'" The Virginia Codes in question in *Wood v. Quinn* certainly handicap that class of potential candidates for the U.S. Senate...all independents and those without the ability to write a $45,000 check to get the required signatures before the early June deadline, including the geographic distribution not required for major party U.S. Senate candidates selected by party convention, as occurs more often than not.

Justice Stevens also notes, "The federal offices at stake 'aris[e] from the Constitution itself. *U.S. Term*

Limits, Inc. v. Thorten 514 U.S. at 805.'" The Virginia Codes under examination are violative of the Qualifications Clauses in Article I of the Constitution.

Justice Stevens notes that the *manner* of elections "encompasses matters like 'notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns.' *Smiley*, 285 U.S. at 366; see also *U.S. Term Limits, Inc. v. Thorten*, 514 U.S. at 833." Requiring a potential independent candidate for U.S. Senate to collect signatures (then prohibiting him or her from doing so) from each of the eleven congressional districts in Virginia hardly falls under such a definition of *manner*, and to do so when major party candidates for U.S. Senate selected by convention never have to show any such so-called statewide support runs contrary to the Equal Protection Clause of the Fourteenth Amendment.

The regulations in question fall well outside the grant of authority to the sates to regulate the time, place, and manner of federal elections. (Noting that the words "number of candidates" are not included in the Constitution pertains to this case.)

Justice Kennedy's opinion in *Cook* states, "A State is not permitted to interpose itself between the people and their National Government as it seeks to do here [*Attempting to influence the electorate concerning a Constitutional Amendment differs only in form from forcing the electorate to vote only for major party candidates:* italicized insert added by petitioner] by petition . Whether a State's concern is with the proposed enactment of a constitutional amendment or an ordinary federal statute, it simple lacks the power to impose any conditions on the election of Senators and Representatives, save the *neutral* [italics added] provisions as to the time, place, and manner of elections

pursuant to Article I, & 4. As the Court observed in *U.S. Term Limits, Inc. v. Thorten*, 514 U.S. 779 (1995), the Elections Clause is a 'grant of authority to issue procedural regulations,' and not 'a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints.' *Id* at 833-834."

Only a potential independent U.S. Senate candidate in Virginia has to present supposed evidence of statewide support to gain ballot access, and the method to do so required by the state is a petition form that clearly states that a petition signature does not signify or indicate any intention of voting for the potential independent candidate. The Virginia Codes in question do not concern a procedure, but rather a closed vehicle for manipulating U.S. Senate ballot content restricting that content to only those who are members of the two major parties or their "sour grapes" members, as Virginia U.S. Senate content historically substantiates.

These codes "safeguard" the U.S. Senate ballot for the two major political parties and serve no legitimate administrative purpose except to further the interests of the two major political parties, who enacted the codes.

Respectfully submitted,

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